

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	

PETITION FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission’s rules,¹ Alaska Communications hereby requests that the Commission reconsider one aspect of its recent Order in the above-captioned proceeding establishing voice and broadband service obligations for Alaska Communications, the sole price cap carrier operating in Alaska.²

In the Order, the Commission requires that, as a condition of receiving frozen Connect America Fund (“CAF”) Phase II support through 2025, Alaska Communications deploy high-speed broadband capability to a minimum of 31,571 locations that are not served by an unsubsidized competitor at 10/1 Mbps or better.³ The Commission allows up to 2,714 of those locations to be in census blocks that are deemed “low-cost” under the Connect America Model developed by the Bureau in the CAF proceeding, provided such census blocks are adjacent to high-cost census blocks, and provided Alaska Communications certifies that the selected locations themselves are actually “high-cost.”⁴ Alaska Communications objects to none of these

¹ 47 C.F.R. §1.429.

² *Connect America Fund*, Order, WC Docket No. 10-90, FCC 16-143 (rel. Oct. 31, 2016) (the “Order”).

³ Order ¶27. This figure was derived from the number of locations identified by the FCC’s Connect America Model in CAF-eligible census blocks – that is, those census blocks meeting the definition of “unserved” and “high-cost” within the statewide local exchange service territory of Alaska Communications. *See* Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 10-90 *et al.*, Attachment at 4 (filed Sept. 12, 2016).

⁴ *Id.* ¶39.

conditions, but seeks reconsideration only of the meaning of “high-cost” in this context. The first opportunity to evaluate the “high-cost” threshold adopted by the Commission for the purpose of enforcing this certification requirement⁵ was upon release of the Order.

In this proceeding, Alaska Communications proposed that it be permitted to serve locations in “low-cost” census blocks that are actually unserved and unlikely to be served in the absence of support, because the FCC model does not entirely capture Alaska-specific costs, and Alaska Communications believes that a number of census blocks deemed “low-cost” by the model contain unserved locations that are, in fact, “high-cost” within the meaning of the Commission’s rulings. Locations within such census blocks logically ought to be eligible for support to the same extent as the neighboring census blocks characterized under the model as “high-cost.”⁶ Alaska Communications argued that, after two decades of competition between itself and General Communication, Inc., when both companies received universal service support for wireline service to rural and high-cost areas, the mere fact that a census block remains unserved is compelling evidence of its high-cost status.⁷ Further, early in this proceeding Alaska Communications introduced its own cost model that demonstrated that nearly all of Alaska’s census blocks are high-cost once the actual costs of doing business in Alaska as well as the structural differences between Alaska and the other 49 states are taken into account (for example,

⁵ *Id.*

⁶ Letter from Karen Brinkmann, Counsel to Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Feb. 3, 2015). *See also* Comments of Alaska Communications Systems, WC Docket No. 10-90 (filed Sept. 12, 2013).

⁷ Comments of Alaska Communications, WC Docket No. 10-90 *et al.* (filed Aug. 8, 2014) at 20 (“ACS and GCI have competed vigorously throughout the majority of ACS’s service area for decades, with both receiving significant federal high cost support. Any locations that remain unserved, even in census blocks that the CAM regards as below the support threshold, are likely to present challenges that make them costly and difficult to serve”).

there are no Internet peering points and no tandem switching in the state).⁸ Therefore, Alaska Communications had confidence that the unserved “low-cost” census blocks adjacent to eligible high-cost census blocks are actually high-cost within the meaning of the model. For these reasons, Alaska Communications did not suggest a specific “high-cost” test in its proposal.

In the Order, the Commission granted the requested flexibility to serve up to 2,714 unserved, high-cost locations in so-called “low-cost” census blocks, but conditioned this flexibility on Alaska Communications’ certifying that the locations themselves are actually “high-cost” under a new test adopted for this purpose:⁹

Specifically, we require ACS to certify that the capital expenditures (capex) it incurs to build out to each location within a qualifying “low-cost” census block was at least \$5,000. According to the model, the average capital expenditure for high-cost locations in Alaska is at least \$5,007.95, so we conclude that ACS should only be able to count towards its total these locations if they in fact require at least this amount of capex to newly serve the location.¹⁰

⁸ On February 13, 2012, Alaska Communications filed its own cost model based on detailed cost inputs and geographic information for the company’s actual service territory, that predicted forward-looking costs of broadband deployment in the relevant area far more accurately than the Commission’s model. *See* FCC Public Notice, “Wireline Competition Bureau Announces Access To Connect America Fund Cost Models Filed In the Record,” DA 12-222, 27 FCC Rcd 1659 (WCB 2012). In 2012 and 2013, Alaska Communications supplemented the record with even more detailed cost information and other Alaska-specific inputs for use in the model, under the confidentiality protections of the Protective Orders adopted in WC Docket Nos. 10-90 and 05-337. Letter from Karen Brinkmann, Counsel for Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 10-90 and 05-337 (filed Feb. 29, 2012); Letter from Karen Brinkmann, Counsel for Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 10-90 and 05-337 (filed July 8, 2013); Letter from Karen Brinkmann, Counsel for Alaska Communications, to Marlene H. Dortch, FCC Secretary, WC Docket Nos. 10-90 and 05-337 (filed July 25, 2013); Comments of Alaska Communications System, WC Docket No. 10-90 (filed Sept. 12, 2013).

⁹ Order ¶39.

¹⁰ *Id.*

It is the \$5,000 figure announced in paragraph 39 of the Order that Alaska Communications urges the Commission to reconsider.¹¹

In the Connect America Fund rulemaking, the Commission elected to target support for price cap carriers to unserved locations in “high-cost” census blocks, which it defined as those where the monthly cost of providing service (according to the Commission’s cost model) exceeds \$52.50 but is less than \$198.60 per location.¹² Under the FCC’s Connect America Model, the minimum capital expenditure (“capex”) for an Alaska high-cost location that would result in a monthly cost of providing service of at least \$52.50 – the lower boundary of the supported “high-cost” range – is \$2,577.79.¹³ Therefore, when Alaska Communications certifies that the locations to which it deploys broadband using CAF in a qualifying “low-cost” census

¹¹ Alaska Communications reserves its legal rights to seek review of other aspects of the Order, but submits this issue for immediate Commission reconsideration because neither Alaska Communications nor any other party had the opportunity to present arguments on this issue before the Order was released – the question of a minimum capital expenditure requirement for eligible locations in so-called “low-cost” census blocks was neither proposed by Alaska Communications nor suggested anywhere else in the record below.

¹² Wireline Competition Bureau Announces Connect America Phase II Support Amounts Offered To Price Cap Carriers To Expand Rural Broadband, WC Docket 10-90, DA 15-509, 30 FCC Rcd 3905, n.1 (2015).

¹³ This is based on the Cost Investment Detail Report of the Connect America Model version 4.2 (“CID CAM 4.2”), the last publicly available model scenario that contained data for Alaska Communications. The level of investment corresponding to a monthly cost of \$52.50 under the CID CAM 4.2 is \$2,577.79. To calculate this investment value, \$52.50 was annualized and then divided by the aggregate annual cost factor (“AACF”) derived from the CID CAM 4.2 for ACS. The AACF represents the amount of cost for each dollar of investment. For example, an annual cost factor of 25% means that for each dollar of investment there is \$0.25 of annual cost. The aggregate annual cost factor is equal to the product of the monthly cost reported on the CID multiplied by twelve all divided by the total reported investment. The \$2,577.79 investment level as calculated as $(\$52.50 \times 12) / 24.44\%$. The 24.44% AACF is based on the average factor of the CBGs with an average monthly cost between \$52.00 and \$52.99 as reported on the CID CAM 4.2.

block are, in fact, high-cost locations, the company logically should be required to certify that it has incurred at least \$2,577.79 in capex to build to such a location – not \$5,000.¹⁴

There is no reasonable basis to require the company to certify to a higher capex amount, nor was any explanation of the \$5,000 figure given in the Order. The Commission merely opined, “According to the [Connect America Model], the *average* capital expenditure for high-cost locations in Alaska is at least \$5,007.95, so we conclude that ACS should only be able to count towards its total these locations if they in fact require *at least* this amount of capex to newly serve the location.”¹⁵ This is an unreasonable requirement when the minimum capex necessary to deliver broadband to a “high-cost” location in Alaska is \$2,577.79 under the Commission’s own model. Under the model’s methodology, a capex of \$5,000 would be associated with a monthly cost of approximately \$101.83.¹⁶ If left to stand, the \$5,000 cost threshold will mean that locations that are legitimately entitled to high-cost support (where the required investment results in a monthly cost greater than the Commission’s high-cost threshold of \$52.50 but less than \$101.83) will be denied access to broadband services solely because the Commission decided to impose an arbitrary cost threshold. This requirement, unsupported by the record or any articulated policy, will discourage investment in high-speed broadband infrastructure in census blocks that until now have been too costly to serve, and could leave

¹⁴ The model’s supported zone is based on investment from the customer premise to an Internet peering point. In many cases a portion of the facilities required to make 10/1 Mbps service available to a location between these two points may already be in place. Therefore, in certifying that investment exceeds the \$2,577.79 minimum capex, Alaska Communications proposes to include the sum of the investment associated with the newly deployed facilities plus a per-location estimate of the forward-looking investment of the facilities already in place.

¹⁵ Order ¶39 (emphasis added).

¹⁶ $(\$5,000 \times 0.2444) \div 12 = \101.83 .

many locations stranded for the foreseeable future. As such, its enforcement would disserve the public interest, and it should be modified.

Alaska Communications urges the Commission to grant this limited request for reconsideration as quickly as possible, and permit Alaska Communications to certify that locations in qualifying “low-cost” census blocks are actually “high-cost” if they require at least \$2,577.79 in capex to deliver broadband. Modifying this aspect of the Order will help ensure that planned broadband deployment in high-cost areas of Alaska may proceed without delay.

Respectfully submitted,



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